

OGC HAS REVIEWED.

LS-8953

"Personnel - 1"

9 July 1954

MEMORANDUM FOR: Chief of Administration, DD/P

SUBJECT: Problem Arising from Employees Returning from Abroad
Prior to Receiving Reassignment Order

1. This will acknowledge receipt of your memorandum dated June 18, 1954 in which you ask us to review the legal aspects of establishing a status for employees in the subject circumstances so that they could legally be permitted to draw per diem while at Headquarters between foreign assignments, and also bring their families and household effects at Government expense. You forward the suggestion that some form of the Army PCA travel order might be appropriate for the purpose.

2. This subject has been a matter of concern to us and to other components of the Agency at least since the reassignment of [REDACTED] Mission personnel in 1952. You will remember our memorandum of 19 December 1952 in which we described in detail what appeared to us to be the most desirable method of transfer in each of five different fact situations, the last two of which are variations of that now being considered. In our memorandum we suggested either that the individual leave his dependents at his overseas station and return to Washington on temporary duty pending reassignment or in the alternative that the individual be transferred to Washington with his dependents on PCS. In a more recent opinion which is attached to your memorandum as Tab B, we recommended that the employee be transferred on PCS to a station as yet undetermined, with home leave followed by temporary duty in Washington. His family could then accompany him to his home leave destination, but his household effects should be left at his overseas post ready for shipment. At the conclusion of his home leave he should leave his family at the home leave site and proceed to Washington alone where he would draw per diem for the duration of his temporary duty. Once his new assignment is determined his goods would be shipped to his new station, and he and his family would travel to his new station at Government expense.

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3. You point out in your memorandum that, if returned on PCS orders to Washington, the employee cannot be paid per diem while there and, if returned on a TDY status, the employee cannot ship his effects to the United States at Government expense. We most heartily agree that either method creates some degree of inconvenience, but we are unable to conceive any legal solution which will solve all the problems

you enumerate. The method which seems to us to solve the greatest number of the problems is that outlined in our May 1954 memorandum referred to above with the additional statement that in cases where the employee concerned is not eligible for home leave, he should be brought to Washington on temporary duty, leaving his family at his present overseas station.

25X1A6a 4. You suggest on the cover sheet that the Agency employ something in the nature of the PCA travel order used by the Army. This type order does not appear to be applicable in this situation. As we understand it, the PCA travel order is closely allied to but more restrictive than a PCS travel order and is used when a person is transferring from one unit to another on the same post as, for example, a transfer between two units occupying two different airfields within the complex of [REDACTED]. We are informed that a person traveling under PCA orders is entitled to travel and transportation of his goods at Government expense, but is not entitled to per diem. We are also informed that the PCA order is never used in cases of transfer to another station.

25X1A9a 25X1A6a 25X1A6a 25X1A6a 25X1A6a 25X1A6a 25X1A6a 5. We wish to emphasize, however, that what we have said here and in past opinions applies only to the normal administrative processes of transfer of personnel and would not preclude a transfer of the type you describe if required for purposes of cover. Assume for example that [REDACTED] in the case affixed to your memorandum, was stationed at [REDACTED] under official cover and that it was proposed to transfer him to a new permanent duty post at [REDACTED] under private cover. Assume further that it was necessary for cover purposes that he and his dependents and goods be sent to [REDACTED] from the United States as new arrivals. In such a situation we would certainly have no legal objection to transfer of the individual from [REDACTED] PCS, return him to Washington TDY for training, and return his dependents and effects to New York for travel to [REDACTED] with him at the conclusion of his Washington duty. With regard to normal transfers, however, the best solution appears to us to be as stated in Paragraph 3 coupled with a careful screening of possible job assignments before transfer orders are issued.

6. The papers forwarded to us are returned herewith. We would be happy to discuss with members of your office at any time the basis for this or our past opinions on the subject as well as any alternatives which occur to you in the future.

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OGC/TMF:afb

Office of General Counsel

Attachment

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